

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Christine Carlucci and Gerard Carlucci

For: Medical Tubing Securing Device

Serial No.: 09/930,398

Filed: August 15, 2001

Group: 3761

Examiner: Erez, Darwin P.

Atty Docket: 262.801

**Pre-Appeal Brief Request for Review**

Commissioner for Patents  
PO Box 1450  
Alexandria VA 22313-1450

Sir:

Applicant requests review of the final rejection mailed July 11, 2006 in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reasons set out *infra*.

### **Reasons for Review**

#### **The Broussard Patent Does Not Disclose the Limitations of a Divided Band or a Closed Loop**

The examiner finally rejected claims 1-14 under 35 U.S.C. § 102 as anticipated by US Patent 5,117,510 to Broussard, a reference newly cited on final rejection. The applicants submitted a Request for Withdrawal of the Final Rejection and Request for Reconsideration of Rejection on August 9, 2006. In that paper, applicants showed how the Broussard patent fails to teach all the essential elements of the claims of the application.

In essence, the independent claims 1, 6, and 11 all recite that a fabric band is **divided into** at least a first and a second **closed loop**. The meaning of the term "divided into" is ascertained by resort to the specification. In the specification at page 4, lines 18-20, the band is divided into closed loops by joining two points along the width of the band, such as by stitching or some other non-disengagable fastening technique. Thus, the term "divided into" as used in the claims, refers to sectioning off a portion of the band. Relatedly, the term "closed loop," used in all the claims, refers to one of the sectioned off parts of the band formed by dividing the band.

The Broussard patent does not disclose either of these limitations: it does not show a divided band, nor does it show sectioned off parts of a band forming closed loops. Instead, the Broussard patent discloses a band having holes cut into it to hold forward-facing penlights. Accordingly, Broussard does not disclose all the limitations of the claims of the present application and therefore does not anticipate the claims. As such, the rejection is clearly erroneous.

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In view of the clear error in the examiner's rejections, it is requested that the panel issue a finding that the application is allowed on the existing claims.

December 11, 2006

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